



## AGENDA BILL APPROVAL FORM

<b>Agenda Subject:</b> Ordinance No. 6268 – Chapter 18.46 (Temporary Use) Amendments		<b>Date:</b> September 25, 2009
<b>Department:</b> Planning, Building & Community	<b>Attachments:</b> Ordinance No. 6268	<b>Budget Impact:</b> N/A
<b>Administrative Recommendation:</b> City Council introduce and adopt Ordinance No. 6268.		

**Background Summary:**

Chapter 18.46 (Temporary Uses) of the Auburn City Code contains regulations and standards for the allowance and processing of temporary use permits throughout the City of Auburn. The Auburn City Council has previously passed ordinances establishing and amending Chapter 18.46 (Temporary Uses) inclusive of Ordinance No. 4229 in 1987, Ordinance No. 5733 in 2003, Ordinance No. 6014 in 2006 and Ordinance No. 6185 in 2008.

The Auburn Planning, Building and Community Department has previously received public input on the lack of clarity and vagueness in the current regulations and standards of Chapter 18.46. The Planning and Community Development Committee of the Auburn City Council has previously requested the Planning Commission and staff to prepare substantive amendments to Chapter 18.46 (Temporary Uses), conduct the required public hearing (s) on these amendments and forward the Commission's recommendation to the Auburn City Council for potential ordinance action.

Planning, Building and Community Department staff met in duly advertised joint meetings with the City of Auburn Planning and Community Development Committee and the Planning Commission on August 4, 2009 and August 11, 2009 to discuss issues and ideas for possible amendments to Chapter 18.64. During these discussions, staff identified and presented information on the need to update the administrative and conditional use nature of all land uses within the City's zoning districts. Planning staff have researched other jurisdictions, analyzed policy options and incorporated, where appropriate, the Committee's and the Commission's input, in the development of the proposed amendments contained herein.

The Planning Commission conducted a duly advertised public hearing on September 9, 2009 for the proposed amendments. Following the close of the public hearing and the Commission's deliberation, the Planning Commission recommended approval of the amendments to the Auburn City Council. The Planning and Community Development Committee reviewed the Commission's recommended at its regularly scheduled September 14, 2009 meeting and requested staff make modifications to certain sections of the proposed Chapter 18.46 text amendments. The Planning and Community Development Committee, on an action motion, recommended approval of Ordinance No. 6268 to the Auburn City Council, at its regularly scheduled September 28, 2009 meeting. Ordinance No. 6268 is scheduled for review by the Public Works and Finance Committee and for possible City Council adoption on Monday, October 5, 2009.

L1005-5

O3.4.2.1.2

<b>Reviewed by Council &amp; Committees:</b> <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input checked="" type="checkbox"/> Planning Comm. <b>COUNCIL COMMITTEES:</b> <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Municipal Serv. <input checked="" type="checkbox"/> Planning & CD <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other _____	<b>Reviewed by Departments &amp; Divisions:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="checkbox"/> Building  <input type="checkbox"/> Cemetery  <input type="checkbox"/> Finance  <input type="checkbox"/> Fire  <input checked="" type="checkbox"/> Legal  <input type="checkbox"/> Public Works  <input type="checkbox"/> Information Services         </div> <div style="width: 48%;"> <input type="checkbox"/> M&amp;O  <input type="checkbox"/> Mayor  <input type="checkbox"/> Parks  <input checked="" type="checkbox"/> Planning  <input type="checkbox"/> Police  <input type="checkbox"/> Human Resources         </div> </div>
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**Action:**

Committee Approval: ☐ Yes ☐ No  
 Council Approval: ☐ Yes ☐ No  
 Referred to \_\_\_\_\_ Until \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Tabled \_\_\_\_\_ Until \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Call for Public Hearing \_\_\_\_/\_\_\_\_/\_\_\_\_

<b>Councilmember:</b> Norman	<b>Staff:</b> Baker
<b>Meeting Date:</b> October 5, 2009	<b>Item Number:</b> VIII.A.2

**ORDINANCE NO. 6 2 6 8**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, REPEALING CHAPTER 18.46, TEMPORARY USES, OF THE AUBURN CITY CODE, ADOPTING A NEW CHAPTER 18.46A, TEMPORARY USES, OF THE AUBURN CITY CODE, AND AMENDING THE CITY OF AUBURN FEE SCHEDULE; ALL RELATING TO TEMPORARY USES

WHEREAS, Chapter 18.46 of the Auburn City Code (ACC), Temporary Uses, contains regulations and standards for the allowance and processing of temporary use permits throughout the City of Auburn; and

WHEREAS, the Planning Commission, with the assistance of City staff, has been conducting a review of ACC Title 18, and has forwarded recommendations for changes to various chapters of that title to the City Council; and

WHEREAS, as part of that review process, the Planning and Community Development Committee of the Auburn City Council had requested that the Planning Commission and City staff prepare amendments to Chapter 18.46 ACC for Council consideration; and

WHEREAS, the City of Auburn's volunteer advisory Code Working Group met on September 8, 2009 and provided input and comments regarding the proposed amendments; and

WHEREAS, the Planning, Building and Community Department has received public input on the current version of Chapter 18.46 asking for greater clarity in its language; and

WHEREAS, Planning, Building and Community Department staff met in duly advertised meetings with the City of Auburn Planning and Community Development

Committee and the Planning Commission on August 4, 2009 to discuss issues and ideas for possible amendments to ACC Chapter 18.46; and

WHEREAS, the Planning Commission held a duly advertised public hearing on September 9, 2009 on the amendments to said Chapter 18.46; and

WHEREAS, pursuant to RCW 36.70A.106, the amendments set forth in this Ordinance were sent to the Growth Management Services Division of the Washington Department of Commerce on September 4, 2009 for a 10-day expedited review request; and

WHEREAS, a Determination of Non-Significance has been issued for the amendments to Chapter 18.46 ACC on September 9, 2009; and

WHEREAS, the City Council finds that the code changes set forth in this Ordinance will produce a clearer, more usable code; and

WHEREAS, the City Council finds that, given the scope of the proposed changes to Chapter 18.46 developed during review of the code, ACC Chapter 18.46 should be repealed and replaced with a new ACC Chapter 18.46A; and

WHEREAS, the City Council finds that the City of Auburn Fee Schedule should be adjusted to reflect the broader scope of administrative permits authorized under this Ordinance,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

**Section 1. Repeal of City Code Chapter.** That Chapter 18.46 of the Auburn City Code be and the same hereby is repealed.

**Section 2. New Chapter of City Code.**

That a new Chapter, 18.46A of the Auburn City Code be and the same hereby is created to read as follows:

**Chapter 18.46A  
TEMPORARY USES**

**Sections:**

- 18.46A.010 Intent.
- 18.46A.020 Permit Approval Required.
- 18.46A.030 Application and Review for Temporary Use Permits.
- 18.46A.040 Appeals of Decisions.
- 18.46A.050 Exemptions.
- 18.46A.060 Coordination with Other City Codes.
- 18.46A.070 General and Specific Temporary Use Permits.
- 18.46A.080 Approval Criteria.
- 18.46A.090 Performance Standards.
- 18.46A.100 Time Limitations.
- 18.46A.110 Limitation on Activity.
- 18.46A.120 Permit Revocation.
- 18.46A.130 Removal of Temporary Uses.
- 18.46A.140 Assurance Device.

**18.46A.010 Intent.**

A. It is the intent of this chapter to provide an administrative approval process whereby the City may permit uses to locate within the City on an interim basis without requiring full compliance with the development standards for the applicable zoning district, or by which the City may allow seasonal or transient uses not otherwise permitted.

B. It is not the intent of this chapter to provide a means to circumvent the strict application of the permitted uses as established elsewhere in this title for the City's zoning districts. Time limits are to be strictly enforced, unless otherwise modified by the planning director or designee.

C. This chapter addresses only those temporary uses located on public or private property outside of public rights of way. Uses located in public rights of way shall be in accordance with Title 12 ACC.

**18.46A.020 Permit approval required.**

A. For the purposes of this chapter, "temporary use" shall mean a short-term or interim activity or purpose for which land or premises or a building thereon is designed, arranged, intended, or for which it is occupied, maintained, let, or leased; and where such use is not in full compliance with the applicable development standards of this title and/or is not otherwise permitted in the applicable zoning district.

B. No temporary use shall be permitted within the City except in accordance with the provisions of this chapter. A temporary use permit is required for temporary uses except those specifically exempted pursuant to Section 18.46A.050 of this chapter. The maximum allowable duration of specific temporary uses shall be 180 calendar days, or as established in the provisions for general and specific temporary use permits in ACC 18.46A.070 together with the extension provisions of ACC 18.46A.100.

C. There shall be two types of temporary use permits identified as a Type I temporary use permit and a Type II temporary use permit.

D. A property owner or an authorized representative of the property owner or a person, business or organization desiring to use a property for a use consistent with this chapter may apply for a temporary use permit. An applicant for a temporary use permit shall provide written evidence of property owner authorization to use the property for the intended temporary use.

E. The planning director or designee may approve permits for temporary uses and structures, with conditions to mitigate negative impacts.

F. The Planning Director or designee may authorize a temporary use permit for a use not specifically listed in the currently adopted use regulations, provided that it is compatible with the purpose and intent of applicable chapters and sections of Title 18 (Zoning), and the specific zoning district in which it will be located.

G. The Planning Director or designee may require other reviews or permits including but not limited to environmental review as a prerequisite to issuance of a temporary use permit or as a condition of approval for a temporary use permit.

#### **18.46A.030 Application and review for temporary use permits.**

A. Temporary use permit applications shall be processed as either a Type I or Type II permit. A Type I temporary use permit shall be used to authorize the temporary uses listed in Section 18.46A.070.A. Type II temporary use permit shall be used to authorize the temporary uses listed in Section 18.46A.070.B.

B. The application for a temporary use permit shall be submitted on forms obtained from the Planning, Building and Community Department and shall include applicable filing fees. The application shall contain all the information required by the City. The Department shall verify that the application is consistent with the requirements of this chapter including but not limited to the irrevocable, signed and notarized statement specified in Section 18.46.130.C, and that the application contains proof of a legitimate business, if applicable, as evidenced by documentation demonstrating the business has obtained, or will obtain prior to commencing the use, a City of Auburn business license and any other required government licenses or approvals. A temporary use that commences without required application review and approval shall be

deemed to be in violation of this chapter and subject to the City's processes and standards for code compliance.

C. Temporary use permits shall be administratively processed and reviewed and not subject to a public hearing, unless a written decision on a temporary use permit is appealed to the City of Auburn Hearing Examiner.

D. Processing of Type I Temporary Use Permits.

1. Type I temporary use permit decisions shall be processed in accordance with the applicable provisions of Title 14 ACC, provided that a decision approving, approving with conditions or denying the application shall be issued within thirty (30) calendar days of the date of application completeness determination. The Planning Director or designee may extend the decision-making upon a written determination transmitted to an applicant of the need for more information or other City permits or licenses or other agency licenses or permits. In this instance, a Type I temporary use permit may be issued following receipt and review of the additional information or receipt of written evidence of other City or agency permits or licenses, as applicable.

2. A Notice of Application in accordance with the provisions of Title 14 ACC, as amended, shall not be required for Type I temporary use permits. A written decision shall be issued to the applicant, property owner if not the same as the property owner, other City departments, as applicable, and other interested parties or agencies that have previously requested to be notified.

E. Processing of Type II Temporary Use Permits.

1. Type II temporary use permit decisions shall be processed in accordance with the applicable provisions of Title 14 ACC, provided that a decision approving, approving with conditions or denying the application shall be issued within fifty (50) calendar days of the date of application completeness determination. The Planning Director or designee may extend the decision-making upon a written determination transmitted to an applicant of the need for more information or other City permits or licenses or other agency licenses or permits. In this instance, a Type II temporary use permit may be issued following receipt and review of the additional information or receipt of written evidence of other City or agency permits or licenses, as applicable.

2. A Notice of Application in accordance with the provisions of Title 14 ACC, as amended, shall be required for Type II temporary use permits. A decision on a Type II temporary use permit shall not be issued until after the public comment period expires, wherein the City solicits comments regarding impacts to the neighborhood or community.

#### **18.46A.040 Appeals of Decisions.**

Appeals of administrative decisions issued under the provisions of this Chapter shall be made to the City of Auburn Hearing Examiner in accordance with the provisions of ACC 18.66, as amended. Appeals of the

Hearing Examiner decision may be appealed in accordance with applicable provisions of ACC 18.66.

**18.46A.050 Exemptions.**

A. The following activities are exempt from the permit requirements of this chapter, but shall comply with other substantive requirements of this chapter, unless specifically noted otherwise:

1. Garage sales and yard sales, provided that the following is complied with:

a. Sales last no longer than 3 days;

b. Sales are conducted on the owner's property. Multiple-family sales are permitted if they are held on the property of no more than three (3) contiguous properties of the participants;

c. Signs shall comply with ACC 18.56 (Signs), as applicable, and must be removed within 24 hours of completion of the sale.

2. City sponsored events and activities;

3. Uses regulated or exempted by ACC 18.60 (Home Occupations);

4. Fireworks stands operating under a permit issued by the City of Auburn and the Fire Marshal's office;

5. The placement of uses and structures in response to a proclamation of civil emergency pursuant to ACC 2.75.070 to provide emergency services to individual citizens or property owners or businesses;

6. City improvement projects pursuant to ACC 18.02.040.E;

7. Temporary offices, construction staging, equipment storage and other similar activities on a site upon which public buildings or structures are being constructed, remodeled or otherwise modified.

**18.46A.060 Coordination with Other City Codes.**

A. Any temporary use otherwise regulated by ACC Title 5, beyond any required general business or solicitors license, is not subject to the provisions of this chapter. However, any license issued under ACC Title 5 shall be consistent with the use regulations of the remainder of this title and any condition or other permit required by this title shall be required.

B. Any licensed solicitor who, while selling or offering goods, wares, merchandise or anything of value displays, advertises, or offers such goods to the passing public while standing on any property, street or public way or any other place not used and licensed by such person as a permanent place of business, shall secure in addition to the solicitors license, a temporary use permit pursuant to this chapter.

**18.46A.070 General and specific temporary use permits.**

A. General Type I Temporary Use Permits. In accordance with Section 18.46A.030, the Planning Director or designee may approve the following general Type I temporary uses and structures:

1. For all zoning districts:
  - a. Temporary use of land to conduct non-profit events of up to six (6) calendar days or less, where the events are of a kind not typically used by the sponsor at the location or site of the event;
  - b. Temporary parking facilities for private uses for four (4) weeks or less per year;
  - c. Temporary fencing for public or private uses for four (4) weeks or less per year;
  - d. Temporary use of privately owned property for temporary offices, construction trailers, materials storage, equipment storage or vehicle parking essential to and only in conjunction with the construction or building of public buildings, structures, road, or utility improvements.
2. For residential zoning districts:
  - a. Temporary modular sales and leasing offices for on-site residential development properties;
  - b. Placement of tents, canopies, or membrane structures for zero to two (2) weeks per year that meet setbacks of the underlying zone;
  - c. Placement of portable moving and storage containers for no greater than three (3) weeks per year;
  - d. On-site temporary caretaker trailers for private or non-profit residential construction;
  - e. On-site temporary construction trailers and offices and storage areas for construction materials and equipment for private or non-profit residential construction;
  - f. Special events such as a community block party, neighborhood parade or similar event involving multiple properties and causing temporary impacts to public rights-of-way or potential increased need for public services.
3. For non-residential zoning districts:
  - a. Commercial carnivals, circuses and shows;
  - b. Temporary sales and leasing offices for on-site commercial or industrial development properties;
  - c. On-site temporary construction trailers and offices and storage areas for construction materials and equipment for commercial, industrial or institutional construction;
  - d. On-site temporary caretaker trailers for commercial, industrial or institutional construction sites;
  - e. Temporary changes of uses and associated temporary structures for four (4) weeks or less per year;
  - f. Temporary mobile sales for the sale of plants, flowers, books, crafts, produce, beverages, food, and other similar items in a single location for no more than two (2) hours per day;



g. Placement of commercial storage containers for no more than three (3) weeks per year;

h. Special events such as a weekend sales event or outdoor concert causing temporary impacts to public rights-of-way or potential increased need for public services;

i. Holiday-related seasonal sales lots along with their associated temporary structures subject to compliance with the following:

i. Applicant demonstrates written proof of property owner permission for use of the subject property;

ii. Adequate off-street parking is provided;

iii. The use will not interfere with adequate vision clearance, as governed by the City of Auburn Engineering Design Standards, as amended;

iv. The use will not obstruct pedestrian access on public rights-of-way;

v. Signage shall comply with the City's signage regulations;

vi. Compliance to conditions required by the Building Official and Fire Marshal for minimum building, fire and life safety codes;

vii. Adequate provisions for trash disposal and sanitary facilities are provided.

j. Agricultural seasonal sale of produce subject to compliance with the following:

i. Demonstrates written proof of property owner permission for use of the subject property;

ii. Adequate off-street parking is provided;

iii. The use will not interfere with adequate vision clearance, as governed by the City of Auburn Engineering Design Standards, as amended;

iv. The use will not obstruct pedestrian access on public rights-of-way;

v. Signage shall comply with the City's signage regulations;

vi. Compliance to conditions required by the Building Official and Fire Marshal for minimum building, fire and life safety codes;

viii. Adequate provisions for trash disposal and sanitary facilities are provided.

B. General Type II Temporary Use Permits. In accordance with Section 18.46A.030, the Planning Director or designee may approve the following general Type II temporary uses and structures:

1. For all zoning districts:

a. Temporary use of land in order to conduct a non-profit event for seven (7) calendar days or more in any such event;

b. Temporary storage of buildings and structures not permanently affixed or constructed or otherwise permanently situated on a property;

c. Temporary parking facilities for private uses for greater than four (4) weeks per year;

- d. Temporary fencing for public or private uses for greater than four (4) weeks per year.
- 2. For residential zoning districts:
  - a. Placement of tents, canopies, or membrane structures for greater than two (2) weeks per year that meet setbacks of the underlying zone;
  - b. Placement of personal use storage containers for greater than three (3) weeks but no more than 12 weeks per year;
  - c. Off-site temporary construction trailers and offices and storage areas for construction materials and equipment for residential construction;
  - d. Temporary use of the following equipment on private property essential to and only in conjunction with the construction or building by the City, another public agency or a private party of a road, bridge, ramp, dock, and/or jetty in proximity to the approved construction site:
    - i. Portable asphalt or concrete mixing plants;
    - ii. Portable concrete batching plants;
    - ii. Portable rock crushing plants;
    - iv. Accessory equipment essential to the use of the aforementioned plants.
- 3. For non-residential zoning districts:
  - a. Off-site temporary construction trailers and offices and storage areas for construction materials and equipment for commercial, industrial or institutional construction;
  - b. Temporary mobile sales for the sale of plants, flowers, books, crafts, produce, beverages, food, and other similar items in a single location for more than two (2) hours per day;
  - c. Temporary changes of uses and associated temporary structures for more than four (4) weeks per year;
  - d. Temporary trailer or prefabricated building. The planning director or designee may approve, approve with conditions or deny a temporary trailer or prefabricated building for use on any real commercial or industrial zoned property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, providing that the applicant demonstrates compliance with the following criteria in addition to the approval criteria specified in Section 18.46A.080:
    - i. The temporary structure shall be located within the boundaries of the parcel of land on which it is located;
    - ii. The temporary structure is in conformance with all applicable building and fire codes;
    - iii. The property to be used for a temporary structure shall already be developed;
    - iv. There exists adequate and safe ingress and egress when combined with the other uses of the property;

- v. There exists adequate sight distance;
- vi. There exists adequate parking for the customers or users of the temporary use in conformance with the City's parking standards, as applicable;
- vii. The use will pose no hazard to pedestrians in the area of the use;
- viii. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect the adjoining uses in accordance with the provisions of ACC 18.31.180;
- ix. The use can adequately be served by sewer or septic system and water, if applicable; and
- x. The length of time that the temporary building will be used is the maximum needed to address the hardship but no longer than one year, unless otherwise extended by the planning director or designee.

C. Specific Type I Temporary Use Permit - Temporary Gravel Parking Facilities.

1. In accordance with Section 18.46A.030, the Planning Director or designee may issue a Type I temporary use permit for a temporary gravel parking facility that serves municipal purposes. The planning director or designee may issue a temporary use permit for a period up to 12 months if the Planning Director or designee finds it is consistent with the following criteria in addition to the approval criteria specified in Section 18.46A.080:

- a. The use will not result in significant drainage or other adverse impacts;
- b. The gravel parking area is not required for the purposes of meeting the current minimum off-street parking requirements.

2. The Planning Director or designee may grant additional extensions to the initial 12-month validity period if he/she finds that such extension is warranted and that the temporary use is still in compliance with all applicable approval criteria.

D. Specific Type I Temporary Use Permit – Site Specific Unforeseen/Emergency Situations.

1. In accordance with Section 18.46A.030, the Planning Director or designee may approve, approve with conditions or deny a request for approval of an unforeseen/emergency situation(s) for a residential, commercial, industrial or institutional building if the planning director or designee finds it is consistent with the following criteria in addition to the approval criteria specified in Section 18.46A.080:

- a. The need for the use is the direct result of a casualty loss resulting from damage or destruction by the elements, including but not limited, to earthquake or fire or windstorm or flood or by human cause of a structure or facility previously occupied on the premises for which the permit is sought;
- b. There exists adequate and safe vehicular ingress and egress when combined with the other uses of the property;

c. There exists adequate off-street or shared parking for the temporary use;

d. The use will pose no hazard to pedestrians in the area of the use;

e. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect adjoining use, pursuant to ACC 18.46A.090 and ACC 18.31.180;

f. The use can be adequately served by sewer or septic system and water, if applicable;

g. The length of time that the temporary building will be used is the maximum needed to address the hardship but no longer than one year, unless otherwise extended by the planning director or designee.

E. Specific Type II Temporary Use Permit - Transitional Uses.

1. Existing agricultural and associated uses, which are not permitted outright, may continue provided there are no new structures built in excess of 2,000 square feet, or the use is expanded five acres or less, unless a temporary use permit is issued. In accordance with Section 18.46A.030, the Planning Director or designee may issue a Type II temporary use permit if he/she finds it is consistent with the following criteria in addition to the approval criteria specified in Section 18.46A.080:

a. The use must be compatible or sufficient mitigating measures available to make it compatible with adjacent permitted uses;

b. The use cannot be a detriment to adjacent permitted uses;

c. The use will not result in significant adverse impacts to the area.

2. The Planning Director or designee may establish a longer validity period than that specified in Section 18.46A.100 for a temporary use permit for the transitional uses specified herein.

3. Upon encroachment of permitted uses into the area authorized for a transitional use under a temporary use permit, the Planning Director or designee may review the temporary use permit to determine if such use is no longer compatible with the permitted uses and should be abated.

F. Specific Type II Temporary Use Permit - Homeless Encampment. In accordance with Section 18.46A.030, the Planning Director or designee may issue a Type II temporary and revocable use permit for a homeless encampment subject to the following criteria and requirements:

1. Procedural Approval.

a. The sponsoring agency shall notify the City of the proposed homeless encampment a minimum of 30 days in advance of the proposed date of establishment for the homeless encampment and at least 14 days before submittal of the temporary use permit. The advance notification shall contain the following information:

i. The date the homeless encampment will encamp;

ii. The length of the encampment;

- iii. The maximum number of residents proposed; and
  - iv. The host location.
  - b. The sponsoring agency shall conduct at least one public informational meeting within, or as close to, the neighborhood where the proposed homeless encampment will be located, a minimum of two weeks prior to the submittal of the temporary use permit application. The time and location of the meeting shall be agreed upon between the City and sponsoring agency. All property owners within 1,000 feet of the proposed homeless encampment shall be notified at least 14 days in advance of the meeting by the sponsoring agency. Proof of mailing shall be provided to the Director of Planning, Building and Community.
  - c. The temporary use permit application shall be accompanied by a hold harmless agreement whereby the host agency and sponsoring agency agree to indemnify the City of Auburn for, and hold it harmless from, all damages that may result from the operation of the homeless encampment by such permit grantee and shall pay all damages for which the permit grantee or the City of Auburn shall be held liable as the result of injuries suffered by any person, association or corporation by reason of the operation of the homeless encampment; provided, that in case any claim is filed with the City of Auburn or any suit or action is instituted against said City by reason of any such damage or injury the City council shall promptly cause written notice thereof to be given to the grantee and the grantee shall have the right to defend any such suit or action.
2. Site Criteria.
- a. If the sponsoring agency is not the host agency of the site, the sponsoring agency shall submit a written agreement from the host agency allowing the homeless encampment.
  - b. The property must be sufficient in size to accommodate tents and necessary on-site facilities, including, but not limited to, the following:
    - i. Sanitary portable toilets in the number required to meet capacity guidelines;
    - ii. Hand washing stations by the toilets and by the food areas;
    - iii. Refuse receptacles;
    - iv. Food tent and security tent.
  - c. The host and sponsoring agencies shall provide an adequate water source to the homeless encampment, as approved by the provider as appropriate or other water service.
  - d. No homeless encampment shall be located within a critical area or its buffer as defined under Chapter 16.10 ACC.
  - e. No permanent structures will be constructed for the homeless encampment.
  - f. No more than 100 residents shall be allowed. The City may further limit the number of residents as site conditions dictate.
  - g. Adequate on-site parking shall be provided for the homeless encampment. No off-site parking will be allowed. The number of vehicles used by homeless encampment residents shall be provided. If the

homeless encampment is located on-site with another use, it shall be demonstrated that the homeless encampment parking will not create a shortage of code-required on-site parking for the other uses on the property.

h. The homeless encampment shall be within a quarter mile of a bus stop with seven days per week service, whenever possible. If not located within a quarter mile of a bus stop, the sponsoring agency must demonstrate the ability for residents to obtain access to the nearest public transportation stop (such as carpools or shuttle buses).

i. The homeless encampment shall be adequately buffered and screened from adjacent right-of-way and residential properties. Screening shall be a minimum height of six feet and may include, but is not limited to, a combination of fencing, landscaping, or the placement of the homeless encampment behind buildings. The type of screening shall be approved by the City.

j. All sanitary portable toilets shall be screened from adjacent properties and rights-of-way. The type of screening shall be approved by the City and may include, but is not limited to, a combination of fencing and/or landscaping.

k. The sponsoring agency shall be responsible for the clean up of the homeless encampment site within seven calendar days of the encampment's termination.

3. Security.

a. An operations and security plan for the homeless encampment shall be submitted and approved by the City.

b. The host agency shall provide to all residents of the homeless encampment a code of conduct for living at the homeless encampment. A copy of the code of conduct shall be submitted to the City at the time of application.

c. All homeless encampment residents must sign an agreement to abide by the code of conduct and failure to do so shall result in the noncompliant resident's immediate and permanent expulsion from the property.

d. The sponsoring agency shall keep a log of all people who stay overnight in the encampment, including names and birth dates, and dates of stay.

e. The sponsoring agency shall take all reasonable and legal steps to obtain verifiable identification, such as a driver's license, government-issued identification card, military identification or passport from prospective and existing encampment residents.

f. The sponsoring agency will use identification to obtain sex offender and warrant checks from the Pierce County or King County sheriff's office or relevant local police department.

i. If said warrant and sex offender checks reveal either: (a) an existing or outstanding warrant from any jurisdiction in the United States for the arrest of the individual who is the subject of the check; or (b) the

subject of the check is a sex offender, required to register with the county sheriff or their county of residence pursuant to RCW 9A.44.130, then sponsoring agency will reject the subject of the check for residency to homeless encampment or eject the subject of the check if that person is already a homeless encampment resident.

ii. The sponsoring agency shall immediately contact the Auburn police department if the reason for rejection or ejection of an individual from the homeless encampment is an active warrant, is due to the individual being a sex offender required to register and/or if, in the opinion of the on-duty executive committee member or the on-duty security staff, the rejected/ejected person is a potential threat to the community.

g. The sponsoring agency shall self-police and self-manage its residents and prohibit alcohol, drugs, weapons, fighting, and abuse of any kind, littering or disturbing neighbors while located on the property.

h. The sponsoring agency will appoint an executive committee member to serve on-duty at all times to serve as a point of contact for City of Auburn police and will orient the police as to how the security operates. The names of the on-duty executive committee members will be posted daily in the security tent. The City shall provide contact numbers of nonemergency personnel, which shall be posted at the security tent.

4. Timing.

a. The maximum continuous duration of a homeless encampment shall be 90 days. Citywide, the total maximum number of days homeless encampments may operate in the City shall not exceed 180 days in any 24-month period (e.g., two homeless encampments each operating 90 days (maximum 180 days total) may be allowed in a 24-month period).

b. No more than one homeless encampment may be located in the City at any time.

5. Health and Safety.

a. All temporary structures within the homeless encampment shall conform to all building codes.

b. The homeless encampment shall conform to the following fire requirements:

i. Material used as roof covering and walls shall be of flame retardant material.

ii. There shall be no open fires for cooking or heating.

iii. No heating appliances within the individual tents are allowed unless the appliance is designed and licensed for that purpose.

iv. No cooking appliances other than microwave appliances are allowed.

v. An adequate number and appropriate rating of fire extinguishers shall be provided as approved by the fire department.

vi. Adequate access for fire and emergency medical apparatus shall be provided. This shall be determined by the fire department.

vii. Adequate separation between tents and other structures shall be maintained as determined by the fire department.

viii. Electrical service shall be in accordance with recognized and accepted practice; electrical cords are not to be strung together and any cords used must be approved for exterior use.

c. The sponsoring and host agencies shall permit inspections by Auburn staff and the King County health department at reasonable times without prior notice for compliance with the conditions of this permit.

6. Termination. If the sponsoring agency fails to take action against a resident who violates the terms and conditions of this permit, it may result in immediate termination of the permit. If the City learns of uncontrolled violence or acts of undisciplined violence by residents of the encampment and the sponsoring agency has not adequately addressed the situation, the temporary use permit may be immediately terminated.

#### **18.46A.080 Approval Criteria.**

A. The Planning Director or designee may approve, or modify and approve an application for a temporary use permit if all of the application satisfies all of the following criteria:

1. The temporary use will not be materially detrimental to the public health, safety or welfare, nor injurious to property or improvements in the immediate vicinity;

2. The temporary use is compatible with the purpose and intent of this title, and the specific zoning district in which it will be located;

3. The temporary use is compatible in intensity and appearance with existing land uses in the immediate vicinity;

4. Structures proposed in association with a temporary use permit will comply with the applicable setback and vision clearance area requirements, and with applicable provisions of the Building and Fire Codes;

5. Adequate parking is available to serve the temporary use, and if applicable, the temporary use does not occupy required off-street parking areas for adjacent or nearby uses;

6. Hours of operation of the temporary use are specified;

7. The temporary use can comply with applicable provisions of Section 18.46A.090;

8. The impacts associated with the temporary use can be mitigated through the application of conditions of approval, as applicable.

#### **18.46A.090 Performance Standards.**

A. The Planning Director or designee shall require compliance to the following performance standards for all authorized temporary use



permits and may approve, or modify and approve an application for a temporary use permit if the application satisfies all of the following criteria:

1. Temporary uses shall, at all times, comply with all local, state or federal standards and regulations, as applicable, pertinent to the type of temporary use being conducted;
2. Temporary uses shall obtain and maintain all other local, state and federal required permits and licenses prior to and during the authorization period for a temporary use;
3. Temporary uses shall comply, as applicable, with the performance standards specified in ACC 18.31.180;
4. Temporary uses shall not generate life safety hazards. Specific mitigating conditions may be required by the planning director or designee.

**18.46A.100 Time Limitation.**

A. A temporary use is valid for up to one hundred eighty (180) calendar days from the effective date of the permit, unless otherwise noted herein, provided, however, that the applicant may request, and/or the Planning Director or designee may establish a shorter time frame in the written decision based on factors including but not limited to the nature of the temporary use, impacts associated with the temporary use or its proximity to residentially zoned areas of the City.

B. The Planning Director or designee may grant additional time extensions upon the applicant satisfactorily demonstrating continued compliance with all conditions of permit approval. Extensions may be granted following the submittal of a written request by the holder of the temporary use permit a minimum of thirty (30) calendar days prior to the expiration date of the original and/or extended temporary use permit, provided that permit holders for permits that are valid thirty (30) calendar days or less shall only be required to submit a written extension request two (2) calendar days before expiration.

**18.46A.110 Limitation on Activity.**

A property owner or other holder of a temporary use permit may not be allowed to file additional temporary use permits for a use on the same site if the Planning Director or designee determines that the use has become permanent in nature either by the period of use or the extent of on-site improvements.

**18.46A.120 Permit Revocation.**

The Planning Director or designee may immediately revoke permit authorization of a temporary use should it be found that such use has failed to comply with any of the conditions of the permit authorization or any of the performance standards specified in Section 18.46A.090 or applicable building and fire codes, is in violation of any state or federal

rules and regulations or any other applicable codes, standards or regulations of the Auburn City Code.

**18.46A.130 Removal of Temporary Uses.**

A. Upon the expiration of the temporary use permit, the applicant shall immediately discontinue the temporary use. Within fifteen (15) calendar days of the expiration of the temporary permit, the applicant shall remove any temporary structures associated with the temporary use. The Planning Director or designee may extend the timeframe for removal of temporary structures upon written request containing adequate justification for this extension and a specific timeframe for the permanent removal of the temporary use.

B. If a temporary use is not removed as required by the temporary use permit or within any extension timeframe authorized by the planning director or designee, the City shall initiate code compliance proceedings in accordance with ACC 1.25 (Civil Penalties for Violations), as amended.

C. Prior to the approval of a Type I or Type II temporary use permit, the applicant shall submit to the City an irrevocable, signed and notarized statement from the applicant and property owner, if applicable, granting the City permission to summarily enter the applicant's property with reasonable notice and abate the temporary use, and all physical evidence of that use if it has not been removed as required by the terms of the permit. The statement shall also indicate that the applicant will reimburse the City for any expenses incurred in abating a temporary use under the authority of this chapter. Abatement actions shall be conducted in accordance with the provisions of ACC 1.25 (Civil Penalties for Violations), as amended.

**18.46A.140 Assurance Device.**

The Planning Director or designee may require the submittal of a cash or surety bond as a condition of approval to assure compliance with applicable provisions of the Auburn City Code and the temporary use permit, as approved. In appropriate circumstances, the planning director may require a reasonable performance of maintenance assurance device, in a form acceptable to the finance department, to assure compliance with the provisions of this title and. If at the end of this time period such temporary use or structure is not removed or discontinued, said cash or surety bond shall be forfeited.

**Section 3. Amendment to Fee Schedule.** The City Clerk is hereby directed to make the following changes to Section A, Planning & Land Use Fees Application Fees, of the City of Auburn Master Fee Schedule:

**A. Planning & Land Use Fees, Application Fees** *(Per Ordinance No. 5707, amended by Ordinance No. 5715, Ordinance No. 5819, Resolution No. 3797, Resolution No. 3953, Resolution No. 4070, Resolution No. 4117, Resolution No. 4143, Ordinance No. 6077 and Resolution No. 4272)*

Applications for any action identified below shall not be accepted for filing until the fees per the below schedule have been paid to the City.

<u>Type</u>	<u>Fee</u>
<b>Additional Meeting Fee</b>	<b>\$450.00 per meeting occurrence</b>
<b>Address assignment</b>	<b>\$104.00</b>
<b>Administrative Use Permits (*application fee covers 1 meeting with staff after which additional meeting fees apply)</b>	<b>\$880.00</b>
<b>Appeal of Administrative Decision (building code, planning director decisions, etc.)</b>	<b>\$259.00</b>
<b>Appeal of Environmental Determination (*application fee covers 1 meeting with staff after which additional meeting fees apply)</b>	<b>\$259.00</b>
<b>Critical Areas Ordinance (CAO)</b>	<b>\$259.00</b>
<b>Reasonable Use Determination</b>	<b>\$259.00</b>
<b>Variance – administrative</b>	<b>\$259.00</b>
<b>Variance – hearing examiner</b>	<b>\$1,000.00 application fee + hourly charge for hearing examiner</b>
<b>Binding site plan (*application fee covers 2 meetings with staff after which additional meeting fees apply)</b>	<b>\$1,139.00 + \$62/lot</b>
<b>Binding Site Plan Modification:</b>	
<b>Approved but Unrecorded</b>	<b>\$300.00</b>
<b>Recorded</b>	<b>\$300.00</b>
<b>Boundary Line Adjustment</b>	
<b>Residential</b>	<b>\$518.00</b>
<b>Non-Residential</b>	<b>\$854.00</b>
<b>Comprehensive Plan Map Amendments<sup>1</sup> (*application fee covers 2 meetings with staff after which additional meeting fees apply)</b>	<b>\$2,070.00 (incl. rezoning)</b>
<b>Comprehensive Plan Text Amendments<sup>23</sup></b>	<b>\$1,000.00</b>
<b>Conditional Use Permits (*application fee covers 2 meetings with staff after which additional</b>	

<sup>1</sup> Fees for amendments to text or maps of the Comprehensive Plan apply only where an applicant seeks an amendment affecting specific properties rather than the City generally or property within the City generally.

<sup>2</sup> Application fee covers 2 meetings with staff after which additional meeting fees apply.

<sup>3</sup> Fees for amendments to text or maps of the Comprehensive Plan apply only where an applicant seeks an amendment affecting specific properties rather than the City generally or property within the City generally.

meeting fees apply)	
Residential	\$1,000.00
All Other Uses	\$2,000.00
Conditional Use Permits – Major Adjustment (*application fee covers 2 meetings with staff after which additional meeting fees apply)	
Residential	\$414.00
All Other Uses	\$554.00
Development Agreement	\$2,200.00 + \$60/lot or du \$802.00 plus actual cost for preparation of draft & final statements including labor materials, mailing & other actual costs relating to the drafting & circulating of the EIS. Review of additional required studies - \$259.00. 3 <sup>rd</sup> Party Review – actual cost. \$802.00 + actual costs
Environmental Checklists (*application fee covers 1 meeting with staff after which additional meeting fees apply)	
Environmental Impact Statement	
Fee for Posting Public Notices:	
2x4 Notice Board	\$52.00
4x4 Notice Board	\$93.00
Final plats (*application fee will cover 2 meetings with staff after which additional meeting fees apply)	\$1,533.00 + \$52.00 per lot
Hearing Examiner – Preparation and Attendance for Hearing	\$1,000.00 application fee + hourly charge for hearing examiner
Hearing Examiner Decision Appeal	\$1,000.00 application fee + hourly charge for hearing examiner
Mining Permits (*application fee covers 3 meetings with staff after which additional meeting fees apply.)	\$3,623.00
Miscellaneous Administrative Decisions (i.e.	\$500.00

sign area deviation, written interpretations, etc.)	
Plat Alteration (*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$1,000 per request
Plat modification (*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$1,000.00 per request
Preliminary plats (*application fee covers 3 meetings with staff after which additional meeting fees apply.)	\$3,000.00 + 120/lot
Preliminary Site Plan approval (non-PUD)	\$1,035.00
Pre-application meeting (*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$259.00 fee will be applied towards any application made w/in 6 months of the date the pre-application meeting was held.
PUD – Major Adjustment <sup>4</sup> (*application fee covers 2 meetings with staff after which additional meeting fees apply.)	\$2,588.00
Rezone (map amendment) <sup>5</sup>	\$1,760.00
School Impact Fee Collection <sup>6</sup>	
Per Single Family Dwelling Unit	\$52.00
Per Multi-Family Dwelling Unit	\$26.00
Shoreline (*application fee covers 1 meeting with staff after which additional meeting fees apply.):	
Exempt Determination	\$215.00
Conditional Use Permit	\$1,139.00
Substantial Development Permit	\$1,139.00
Variance	\$1,139.00
Short Plat Amendment (*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$1,449.00
Short Plat Application (*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$1,449.00
Short Plat Modification	\$259.00 per requested modification
Sign Permit	\$100.00
Site Plan Approval (PUD, Residential) <sup>7</sup>	\$1,139.00 +

<sup>4</sup> A prior City Code amendment eliminated Planned Unit Developments (PUD). The PUD fees included herein are applicable only to the existing Lakeland South PUD.

<sup>5</sup> Application fee covers 2 meetings with staff after which additional meeting fees apply.

<sup>6</sup> The City imposes an application fee to cover the reasonable cost of administration of the impact fee program.

(*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$62.00/lot or unit
Site plan approval (PUD, Non-residential) <sup>8</sup>	\$1,139.00 +
(*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$62.00/lot or unit
Special home occupation permits	\$259.00
Type I Temporary Use Permit	\$96.00 + 48.00 per extension request
Type II Temporary Use Permit	\$144.00 + \$48.00 per extension request
Three Party Outside Utility Extension Agreement - Site Specific Review. (*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$1,035.00 + plus the City's actual costs in performing under the terms of the agreement as negotiated between the parties
Variance	
Each Single Family Lot	\$259.00
All Other	\$57.00
Water/Sewer Certificate	\$311.00
Zoning Certification letter:	
Residential	\$52.00
Non-Residential	\$104.00
Zoning Code Text Amendment (*application fee covers 1 meeting with staff after which additional meeting fees apply.)	\$1,035.00
Books, Maps, Materials <sup>9</sup>	
Comprehensive Plan	\$21.00
Critical Areas Ordinance	\$5.00
Downtown Plan	\$25.00
Downtown Plan Appendices	\$25.00
Land Division Ordinance	\$5.00
SEPA Ordinance	\$5.00
Wetlands Map	\$6.00
Zoning Map	\$6.00
Zoning Ordinance	\$11.00

<sup>9</sup> Prices for printed materials do not include any taxes.

<sup>7</sup> See footnote 3.

<sup>8</sup> See footnote 3.

**Section 4. Implementation.** The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

**Section 5. Severability.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

**Section 6. Effective date.** This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: \_\_\_\_\_

PASSED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

**CITY OF AUBURN**

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

\_\_\_\_\_  
PETER B. LEWIS  
MAYOR

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

Published: \_\_\_\_\_

## Text of Repealed Chapter 18.46 ACC

### Chapter 18.46 TEMPORARY USES

#### Sections:

- 18.46.010 Intent.
- 18.46.020 Interim uses.
- 18.46.030 Seasonal uses.
- 18.46.040 Temporary uses associated with construction projects.
- 18.46.050 Transitional uses.
- 18.46.060 Administrative temporary use permits.
- 18.46.070 Conditions.
- 18.46.080 Coordination with other city codes.
- 18.46.090 Homeless encampments.

#### 18.46.010 Intent.

It is the intent of this chapter to regulate certain temporary uses of property which are not otherwise regulated, beyond business registration, by other city ordinances or regulations. (Ord. 4229 § 2, 1987.)

#### 18.46.020 Interim uses.

The hearing examiner may issue a temporary and revocable permit, after a public hearing is held pursuant to ACC 18.70.040, to allow an owner, developer, contractor, tenant, lessee, or other occupant to conduct an otherwise permitted use on their property at the same time they are improving the property to the required city standards, pursuant to the following conditions:

A. The permit may be issued for a period up to six months and may be extended for three more months if the applicant has acted in good faith towards compliance of the original permit. The hearing examiner shall decide what constitutes said good faith.

B. The hearing examiner may issue the permit only if the proposed use is consistent with the following findings of fact:

1. The request is reasonable and there is no other practical alternative;
2. Adverse impacts associated with the temporary use are appropriately mitigated and such temporary use will not cause a hazard to the occupants or to neighboring properties;
3. A hardship is involved that cannot otherwise be reasonably resolved;
4. A performance bond, in the amount of the required improvements, shall be posted guaranteeing the completion of the project. (Ord. 4229 § 2, 1987.)

#### 18.46.030 Seasonal uses.

The hearing examiner may issue a temporary and revocable permit, after a public hearing is held pursuant to ACC 18.70.040, to allow sales of seasonal goods, in any nonresidential zone, for a period not to exceed six months in any 12-month period.

A. The use need not meet the standards normally associated with a permanent use provided the hearing examiner finds that the temporary use is not in proximity to a



competing permanent use. Other findings and requirements the hearing examiner shall consider will be as follows:

1. The use must be consistent with the permitted uses in the zone;
2. The use must be an appropriate interim use of the property pending the permanent long term use;
3. The use will not result in significant traffic, parking, drainage, fire protection, or other adverse impacts;
4. The use must provide sanitary facilities if the hearing examiner finds it is necessary;
5. A performance bond, the amount to be determined by the building official, and approved by the hearing examiner, shall be posted guaranteeing the removal of the use and the area restored to the satisfaction of the building official.

B. Failure to comply with the conditions of the permit shall cause forfeiture of that portion of the bond necessary to correct the violations. (Ord. 4229 § 2, 1987.)

#### 18.46.040 Temporary uses associated with construction projects.

A. The hearing examiner may issue a temporary and revocable permit after a public hearing is held pursuant to ACC 18.70.040, for activities associated with construction projects, including but not limited to equipment storage yards, job shacks, materials storage yard, or living quarters, which are not otherwise permitted outright by city ordinances or regulations.

B. The hearing examiner may issue a temporary use permit for construction related activities, if it is found that proposal is consistent with the following findings of fact:

1. The use would not pose a hazard or be a detriment, physical or otherwise, to the neighborhood;
2. The use will not result in significant traffic, parking, drainage, fire protection, or other adverse impacts;
3. A performance bond, the amount to be determined by the building official, and approved by the hearing examiner, shall be posted guaranteeing the removal of the use and the area restored to the satisfaction of the building official. Failure to comply with the conditions of the permit shall cause forfeiture of that portion of the bond necessary to correct the violations;

4. The temporary use shall be reviewed each six months to determine if the temporary use permit is still valid, if not, then the hearing examiner shall terminate the permit;

5. The temporary use shall be vacated upon completion of the associated construction project or determined by subsection (B)(4) of this section. (Ord. 4229 § 2, 1987.)

#### 18.46.050 Transitional uses.

A. Existing agricultural and associated uses, which are not permitted outright, may continue provided there are no new structures built in excess of 2,000 square feet, or the use is not expanded by five acres, unless a permit is issued, after a public

hearing is held pursuant to ACC 18.70.040, by the hearing examiner consistent with the following findings of fact:

1. The use must be compatible or sufficient mitigating measures available to make it compatible with adjacent permitted uses;

2. The use cannot be a detriment to adjacent permitted uses;

3. The use will not result in significant adverse impacts to the area.

B. Upon encroachment of permitted uses into the area the hearing examiner may review a transitional use permit to determine if such use is no longer compatible with the permitted uses and should be abated. (Ord. 4229 § 2, 1987.)

#### 18.46.060 Administrative temporary use permits.

A. The planning director may issue a temporary use permit to allow a business to begin operation while the business is securing approval from the hearing examiner if the planning director finds the use consistent with the following findings of fact:

1. The need is due to circumstances beyond control of the applicant;

2. The need is due to hardship such as loss of continuity of business;

3. The use is reasonably expected to be permitted by the appropriate body;

4. No significant capital outlay is required for the initial operation of business;

5. Application for the permit allowing the permanent use must be filed;

6. The existing structure and lot must otherwise comply to city standards;

7. The permit shall terminate when the hearing examiner has rendered the final decision;

8. The applicant agrees in writing that the temporary use permit does not guarantee a subsequent permanent use;

9. A performance bond must be posted guaranteeing the removal of the use if the use is denied by the hearing examiner.

B. The building official may issue a temporary use permit for temporary or seasonal uses including, but not limited to, Christmas tree lots, street sales, or exhibits for up to six weeks in duration, if the use is consistent with the following finding of fact:

1. The use must be consistent with the permitted uses in the zone;

2. The use will not result in significant traffic, parking, drainage, fire protection, or other adverse impacts;

3. If appropriate the building official may require a bond to assure the removal of the use and the area restored to the satisfaction of the building official.

C. The building official may issue a temporary use permit for a temporary structure for the purpose of the sale of agricultural products grown on the premises if consistent with the following findings of fact:

1. The temporary structure is less than 300 square feet in floor area and must meet the proper setbacks of the zone;

2. The use will not result in significant traffic, parking or other adverse impacts.

D. The planning director may issue a temporary use permit for a temporary gravel parking facility that serves municipal purposes. The temporary use permit may be issued for a period up to 12 months if the planning director finds it is consistent with the following criteria:

1. The use will not result in significant drainage or other adverse impacts;

2. The gravel parking area is not required for the purposes of meeting the minimum off-street parking requirements pursuant to ACC 18.52.020;

3. The temporary use permit may be renewed for subsequent 12-month periods; provided, that the planning director finds that the above criteria can continue to be met. (Ord. 6185 § 2, 2008; Ord. 5733 § 3, 2003; Ord. 4229 § 2, 1987.)

#### 18.46.070 Conditions.

In order to reasonably mitigate any adverse impacts associated with a temporary use permit, the permit may be conditioned to assure such mitigation. (Ord. 4229 § 2, 1987.)

#### 18.46.080 Coordination with other city codes.

A. Any temporary use otherwise regulated by ACC Title 5, beyond any required business or solicitors license, is not subject to the provisions of this chapter. However, any license issued under ACC Title 5 shall be consistent with the use regulations of the remainder of this title and any condition or other permit required by this title shall be required.

B. Any licensed solicitor who, while selling or offering goods, wares, merchandise or anything of value displays, advertises, or offers such goods to the passing public while standing on any property, street or public way or any other place not used and licensed by such person as a permanent place of business, shall secure in addition to the solicitors license, a temporary use permit pursuant to this chapter.

C. Uses regulated or exempted by Chapter 18.60 ACC, Home Occupations, are not subject to the provisions of this chapter. (Ord. 4229 § 2, 1987.)

#### 18.46.090 Homeless encampments.

The director of planning, building and community may issue a temporary and revocable permit for a homeless encampment subject to the following criteria and requirements:

##### A. Procedural Approval.

1. The sponsoring agency shall notify the city of the proposed homeless encampment a minimum of 30 days in advance of the proposed date of establishment for the homeless encampment and at least 14 days before submittal of the temporary use permit. The advance notification shall contain the following information:

- a. The date the homeless encampment will encamp;
- b. The length of the encampment;
- c. The maximum number of residents proposed; and
- d. The host location.

2. The sponsoring agency shall conduct at least one public informational meeting within, or as close to, the neighborhood where the proposed homeless encampment will be located, a minimum of two weeks prior to the submittal of the temporary use permit application. The time and location of the meeting shall be agreed upon between the city and sponsoring agency. All property owners within 1,000 feet of the proposed homeless encampment shall be notified at least 14 days in advance of the meeting by the sponsoring agency. Proof of mailing shall be provided to the director of planning, building and community.

3. The temporary use permit application shall be accompanied by a hold harmless agreement whereby the host agency and sponsoring agency agree to indemnify the city of Auburn for, and hold it harmless from, all damages that may result from the operation of the homeless encampment by such permit grantee and shall pay all damages for which the permit grantee or the city of Auburn shall be held liable as the result of injuries suffered by any person, association or corporation by reason of the operation of the homeless encampment; provided, that in case any claim is filed with the city of Auburn or any suit or action is instituted against said city by reason of any such damage or injury the city council shall promptly cause written notice thereof to be given to the grantee and the grantee shall have the right to defend any such suit or action.

B. Site Criteria.

1. If the sponsoring agency is not the host agency of the site, the sponsoring agency shall submit a written agreement from the host agency allowing the homeless encampment.

2. The property must be sufficient in size to accommodate tents and necessary on-site facilities, including, but not limited to, the following:

- a. Sanitary portable toilets in the number required to meet capacity guidelines;
- b. Hand washing stations by the toilets and by the food areas;
- c. Refuse receptacles;
- d. Food tent and security tent.

3. The host and sponsoring agencies shall provide an adequate water source to the homeless encampment, as approved by the provider as appropriate or other water service.

4. No homeless encampment shall be located within a critical area or its buffer as defined under Chapter 16.10 ACC.

5. No permanent structures will be constructed for the homeless encampment.

6. No more than 100 residents shall be allowed. The city may further limit the number of residents as site conditions dictate.

7. Adequate on-site parking shall be provided for the homeless encampment. No off-site parking will be allowed. The number of vehicles used by homeless encampment residents shall be provided. If the homeless encampment is located on-site with another use, it shall be demonstrated that the homeless encampment parking will not create a shortage of code-required on-site parking for the other uses on the property.

8. The homeless encampment shall be within a quarter mile of a bus stop with seven days per week service, whenever possible. If not located within a quarter mile of a bus stop, the sponsoring agency must demonstrate the ability for residents to obtain access to the nearest public transportation stop (such as carpools or shuttle buses).

9. The homeless encampment shall be adequately buffered and screened from adjacent right-of-way and residential properties. Screening shall be a minimum height of six feet and may include, but is not limited to, a combination of fencing, landscaping, or the placement of the homeless encampment behind buildings. The type of screening shall be approved by the city.

10. All sanitary portable toilets shall be screened from adjacent properties and rights-of-way. The type of screening shall be approved by the city and may include, but is not limited to, a combination of fencing and/or landscaping.

11. The sponsoring agency shall be responsible for the clean up of the homeless encampment site within seven calendar days of the encampment's termination.

C. Security.

1. An operations and security plan for the homeless encampment shall be submitted and approved by the city.

2. The host agency shall provide to all residents of the homeless encampment a code of conduct for living at the homeless encampment. A copy of the code of conduct shall be submitted to the city at the time of application.

3. All homeless encampment residents must sign an agreement to abide by the code of conduct and failure to do so shall result in the noncompliant resident's immediate and permanent expulsion from the property.

4. The sponsoring agency shall keep a log of all people who stay overnight in the encampment, including names and birth dates, and dates of stay.

5. The sponsoring agency shall take all reasonable and legal steps to obtain verifiable identification, such as a driver's license, government-issued identification card, military identification or passport from prospective and existing encampment residents.

6. The sponsoring agency will use identification to obtain sex offender and warrant checks from the Pierce County or King County sheriff's office or relevant local police department.

a. If said warrant and sex offender checks reveal either: (i) an existing or outstanding warrant from any jurisdiction in the United States for the arrest of the individual who is the subject of the check; or (ii) the subject of the check is a sex offender, required to register with the county sheriff or their county of residence pursuant to RCW 9A.44.130, then sponsoring agency will reject the subject of the check for residency to homeless encampment or eject the subject of the check if that person is already a homeless encampment resident.

b. The sponsoring agency shall immediately contact the Auburn police department if the reason for rejection or ejection of an individual from the homeless encampment is an active warrant, is due to the individual being a sex offender required to register and/or if, in the opinion of the on-duty executive committee member or the on-duty security staff, the rejected/ejected person is a potential threat to the community.

7. The sponsoring agency shall self-police and self-manage its residents and prohibit alcohol, drugs, weapons, fighting, and abuse of any kind, littering or disturbing neighbors while located on the property.

8. The sponsoring agency will appoint an executive committee member to serve on-duty at all times to serve as a point of contact for city of Auburn police and will orient the police as to how the security operates. The names of the on-duty executive committee members will be posted daily in the security tent. The city shall provide contact numbers of nonemergency personnel, which shall be posted at the security tent.

D. Timing.

1. The maximum continuous duration of a homeless encampment shall be 90 days. Citywide, the total maximum number of days homeless encampments may operate in the city shall not exceed 180 days in any 24-month period (e.g., two homeless encampments each operating 90 days (maximum 180 days total) may be allowed in a 24-month period).

2. No more than one homeless encampment may be located in the city at any time.

E. Health and Safety.

1. All temporary structures within the homeless encampment shall conform to all building codes.

2. The homeless encampment shall conform to the following fire requirements:

a. Material used as roof covering and walls shall be of flame retardant material.

b. There shall be no open fires for cooking or heating.

c. No heating appliances within the individual tents are allowed unless the appliance is designed and licensed for that purpose.

d. No cooking appliances other than microwave appliances are allowed.

e. An adequate number and appropriate rating of fire extinguishers shall be provided as approved by the fire department.

f. Adequate access for fire and emergency medical apparatus shall be provided. This shall be determined by the fire department.

g. Adequate separation between tents and other structures shall be maintained as determined by the fire department.

h. Electrical service shall be in accordance with recognized and accepted practice; electrical cords are not to be strung together and any cords used must be approved for exterior use.

3. The sponsoring and host agencies shall permit inspections by Auburn staff and the King County health department at reasonable times without prior notice for compliance with the conditions of this permit.

F. Termination. If the sponsoring agency fails to take action against a resident who violates the terms and conditions of this permit, it may result in immediate termination of the permit. If the city learns of uncontrolled violence or acts of undisciplined violence by residents of the encampment and the sponsoring agency has not adequately addressed the situation, the temporary use permit may be immediately terminated. (Ord. 6014 § 5, 2006.)